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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,148	12/13/2001	David Michael Matela	16258	3181

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KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER	
SALVATORE, LYNDA	

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/023,148	MATELA ET AL.
	Examiner	Art Unit
	Lynda M Salvatore	1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 May 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20 and 41-54* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20 and 41-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 05/13/04 have been fully considered and entered. Claims 21-40 have been canceled and new claims 41-54 have been added. Applicant's arguments have been found persuasive to overcome the rejections set forth in sections 3-9 of the last Office Action. Specifically, the prior art fails to teach universally dispersing a second material within the multi-component filaments in the z direction. As such, these rejections are hereby withdrawn. However, upon further consideration a new ground of rejection is set forth herein below.

Election/Restrictions

2. Newly submitted claims 47-50 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: New claims 47-50 are directed to a method of forming a coform non-woven.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 47-50 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-6,12-18,20, and 41-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over of Jackson et al., US 5,952,251 in view Everett et al., US 6,437,214.

The patent issued to Jackson et al., discloses a water dispersible fibrous web comprising melt-spun continuous fibers, staple reinforcing polymer fibers, and an absorbent material (Column 45, 30-35, and Column 8, 55-60). Jackson et al., defines a coform web as continuous melt-spun reinforcing fibers intermixed with shorter absorbent fibers such as pulp and super-absorbents (Column 8, 10-15). The continuous fibers may be formed from various polymers such as polyesters, polyethylene terephthalate, polyamides, and a blend of at least two these materials (Column 9, 28-35). The staple fibers may be formed from the same polymers as listed above as well as nylons and polyurethanes (Column 9, 59-68). The absorbent material may consist of wood pulp fibers and super-absorbent materials in the form of particles, fibers or flakes (Column 10, 41-45,56-67). The amount of continuous fibers ranges from 30% to 35%, the staple fiber concentration ranges from 5% to 8%, and the amount of absorbent material ranges from 40% to 60% (Claims 18 and 19). Jackson et al., teaches in example 1 a non-woven comprising 50% continuous fibers and 50% of staple reinforcing polymer/pulp fibers wherein 80% is pulp and 20% is polymer (Column 18,55-65). Jackson et al., teaches that coform non-woven webs are well suited for personal absorbent care articles (Column 11, 20-30).

Jackson et al., fails to teach dispersing the secondary superabsorbent materials uniformly, however, the patent issued to Everett et al., teaches an absorbent core structure comprising a fibrous coform material comprising a blend of superabsorbent materials and synthetic hyrdrophillic fibers made from inherently wettable thermoplastic polymers (Column 13, 50-60 and Column 14, 30-35). Everett et al., specifically teaches that the

superabsorbent materials may be substantially homogenously mixed with the hydrophilic fibers (Column 14, 35-40).

Therefore, motivated by the desire to provide consistent absorbency throughout the absorbent core, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the coform taught by Jackson et al., by homogeneously dispersing the secondary material as taught by Everett et al.

With regard to the wicking distance recited claim 12, the combination of prior art does not explicitly state said wicking distance, however it is reasonable to presume said limitation is inherent to the coform web of Jackson et al., in view of Everett et al. Specifically, support for said argument is found in the use of like materials (i.e., continuous fibers intermixed with super-absorbents) as well like processes (i.e., such as substantially homogeneously dispersing the secondary material to produce a coform non-woven web), which would result in the presently claimed property limitations. The burden is upon the Applicant to evidence the contrary.

With regard to claims 41-46, the limitations of attenuating the thermoplastic filaments with a fluid stream are considered method limitations not germane to the final product structure. It is the position of the Examiner that the combination of prior art meets the chemical and structural limitations set forth. As such, the presence of process limitations on product claims in which the product does not otherwise patently distinguish over the prior art, cannot impart patentability to the product. *In re Stephens*, 145 USPQ 656

The claimed invention appears to be the same or similar to the product produced by the combination of prior art, although produced by a different process. The burden is

shifted to Applicant to establish an unobvious difference between the claimed product and the prior art product. *In re Marosi*, 218, USPQ 289.2

6. Claims 1,2,6-8,12,14, 20, 41-46 and 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neely et al., PCT WO 00/66824 in view Everett et al., US 6,437,214.

The published PCT application to Neely et al., teaches a non-woven comprising continuous fibers oriented in a z-direction (Abstract). Neely et al., teaches enhancing the absorbency of the non-woven web with an absorbent such as super-absorbent particles as a coform (Page 8,1-3). The continuous fibers are bicomponent fibers made from various polyolefins, polycarbonates, polystyrenes, thermoplastic elastomers, fluoropolymers, and vinyl polymers (Page 7,6-31).

Neely et al., fails to teach dispersing the secondary superabsorbent materials uniformly, however, the patent issued to Everett et al., teaches an absorbent core structure comprising a fibrous coform material comprising a blend of superabsorbent materials and synthetic hyrdrophillic fibers made from inherently wettable thermoplastic polymers (Column 13, 50-60 and Column 14, 30-35). Everett et al., specifically teaches that the superabsorbent materials may be substantially homogenously mixed with the hydrophilic fibers (Column 14, 35-40).

Therefore, motivated by the desire to provide consistent absorbency throughout the absorbent core, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the coform taught by Neely et al., by homogeneously dispersing the secondary material as taught by Everett et al.

With regard to the wicking distance recited claim 12, the combination of prior art does not explicitly state said wicking distance, however it is reasonable to presume said limitation is inherent to the coform web of Neely et al., in view of Everett et al. Specifically, support for said argument is found in the use of like materials (i.e., continuous fibers intermixed with super-absorbents) as well like processes (i.e., such as substantially homogeneously dispersing the secondary material to produce a coform non-woven web), which would result in the presently claimed property limitations. The burden is upon the Applicant to evidence the contrary.

With regard to claims 41-46 and 51-54, the limitations of attenuating the thermoplastic filaments with a fluid stream are considered method limitations not germane to the final product structure. It is the position of the Examiner that the combination of prior art meets the chemical and structural limitations set forth. As such, the presence of process limitations on product claims in which the product does not otherwise patently distinguish over the prior art, cannot impart patentability to the product. *In re Stephens*, 145 USPQ 656

The claimed invention appears to be the same or similar to the product produced by the combination of prior art, although produced by a different process. The burden is shifted to Applicant to establish an unobvious difference between the claimed product and the prior art product. *In re Marosi*, 218, USPQ 289.2

8. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al., US 5,952,251 and/or Neely et al., PCT WO 00/66824 in view of Everett et al., US 6,437,214, as applied to claim 1 above, and further in view of Fontenot et al., PCT WO 00/34567.

The combinations of prior art fails to teach the instantly claimed density range, however the published PCT application to Fontenot et al., teaches an absorbent airlaid composite comprising bicomponent and pulp fibers (Abstract). Fontenot et al., teaches a density of about .02 to .05 g/cc (Page 10,19-21).

Therefore, motivated to provide a thin dense absorbent structure it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the coform non-woven webs of Jackson et al., and Neely et al., having the density range taught by Fontenot et al.

9. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neely et al., PCT WO 00/66824 in view of Everett et al., US 6,437,214, as applied to claims 1 and 8 above, and further in view of NIPPON ESTER CO LTD, JP 2001181932 A.

Neely et al., fails to specifically teach a multi-component fiber having a side-by-side (A/B/A) striped configuration, however, such multi-component fiber arrangements are known in the art. For example the Japanese abstract teaches a stripped side-by-side multi-component fiber (Abstract and Figures). The Japanese abstract teaches that the fibers are suitable for textile use and exhibit soft feeling and drape.

Therefore, motivated by the desire to produce a coform material having a soft feeling and/or drape, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the multi-component fibers taught by Neely et al., having the side-by-side striped configuration disclosed by NIPPON ESTER CO LTD.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 25, 2004
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CHERYL A. JUSKA
PRIMARY EXAMINER